IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6516 OF 2004

The Sangli Bank Limited. ...Petitioner
V/s.
Shri Mohan M. Deshmukh & Anr. ...Respondents

Shri S.S. Patwardhan with P. Chavan for Petitioner.
Shri S.B. Deshmukh with A.V. Anturkar for Respondents No.1 and 2.

CORAM : V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATED : JUNE 19, 2006

P.C. :-

. By this petition, the petitioner has challenged the order passed by the DRAT confirming the order passed by the DRT on the original application filed by the present petitioner - Sangli Bank Ltd. The claim of the bank as disclosed by the original application was decreed by the DRT Pune by its order dated 19th June, 2002 and Recovery Certificate was ordered to be issued. The operative part of the said order reads thus :-

> ". Issue Recovery Certificate in favour of the applicant for recovery of Rs.68,84,681.85 (Sixty eight Lakh Eighty four thousand six hundred eighty one and eighty five paise only)

together with future interest at the rate of 17.5% per annum from the date of the suit till realization and proportionate cost of the application.

. From out of the amount payable to the applicant Rs.5,000/- (Rupees five thousand only) will be deducted as the charges paid by the opponents for getting the account extract prepared.

. The amount deposited by the opponents after the institution of suit shall be given due credit by the Recovery Officer.

. Charge of the said amount is kept on the property mortgaged in favour of the applicant.

. Right of redemption shall stand extinguished 02 months after the date of this Order.

. This Order shall form part the Recovery Certificate."

. This order was challenged by the Sangli Bank before the Appellate Tribunal basically on the ground that the bank was not allowed to charge interest with quarterly rests. This aspect was considered by the Appellate Tribunal and the appeal was dismissed. Hence, this petition.

. It will be seen, therefore, that the Tribunal has ordered payment of the principal amount with future interest at the rate of 17.5% per annum from the date of the suit till realisation and proportionate cost. Grant of interest with quarterly rests or otherwise is a matter of discretion of the Tribunal as will be seen from the provisions of Section 34 of the Code of Civil Procedure. Therefore, there is no jurisdictional or legal error committed by either of the Tribunal. Hence, no interference is called for. Petition dismissed.

(V.G. PALSHIKAR, J.)

(V.M. KANADE, J.)